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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/638,096	08/07/2003	Levik Kodaverdian	Bona US 4 CVL	3381

7590

07/23/2004

KLAAS, LAW, O'MEARA & MALKIN, P.C.  
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EXAMINER

SHAKERI, HADI

ART UNIT PAPER NUMBER

3723

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/638,096

**Applicant(s)**

KODAVERDIAN ET AL.

**Examiner**

Hadi Shakeri

**Art Unit**

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

### A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 092203
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_

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## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the housing with an opening and a rotatable abrasive disc having a diameter greater than 6" (claims 1 and 17); motor connected to the disc by a belt (claim 9 and 24); and port adjacent the second housing and a vacuum device (claim 12 and 27) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The disclosure is objected to because of the following informalities: page 2, line 3, "in edges it that" should be changed to, --in edges is that--.

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Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 10-12 and 25-27 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a fan (178 or 180) located within a housing (164) contained within the second (upper) housing (106) and connected to the first (lower) housing through bell end (166) and upper portion of lower housing (122), does not reasonably provide enablement for a first housing comprising a fan (claims 10 and 25) and a fan located within a compartment within the first housing (claim 11 and 26). Further the specification, while being enabling for a port (130) adjacent rear portion (121) of the first housing (104) configured for attachment to a vacuum device, does not reasonably provide enablement for a port (130) adjacent the fan (178/180) in the second housing (106) (claim 12 and 27). The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 12 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
7. Claims 12 and 27 recite the limitation "said second housing" in line 1. There are insufficient antecedent bases for this limitation in the claims.

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**Claim Rejections - 35 USC § 103**

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

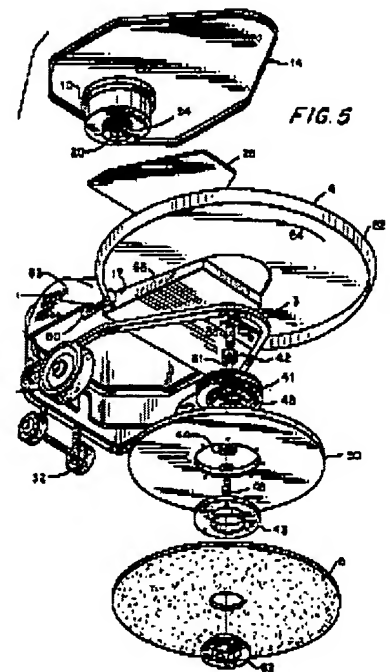
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-11, 13, 15-26, 28, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gurstein et al. (5,870,791) in view of McCutchen (6,540,598).

Gurstein et al. meets all of the limitations of claims 1 and 17, i.e., A floor edger comprising a first housing (either frame 3, or shroud 4) including an opening and a rotatable abrasive disc (6) located in said opening, said rotatable abrasive disc having a diameter greater than six inches, and a motor (8) operatively connected to said first housing and drivingly connected to said abrasive disc; a motor controller (25), except for the floor edger having a weight of less than twenty-eight pounds.

The edger as disclosed is dimensioned and proportionally sized for a disc having 20" diameter, therefore modifying or proportionally downsizing the edger of Gurstein et al. for a disc of about 7", a common commercially available size as evident by McCutchen (col. 3, line 46), depending on the workpiece and or operational parameters, e.g., grinding small or hard to reach areas, a modification well within the knowledge of one of ordinary skill in the art, would reduce the weight if not three times smaller, sufficiently lighter to meet the limitations as recited.

Regarding claims 2, 3, 18 and 19, Gurstein et al. in view of McCutchen, i.e., for use with a smaller pad, e.g., 7" depending on workpiece and/or operational parameters meets the limitations, since pads having 6 to 8 inch diameters are common in the art.



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Regarding claims 4-8 and 20-23, Gurstein et al. in view of McCutchen meets the limitations, e.g., col. 3, line 46 (US 5,004,944); 2.5 hp, however, it is also noted it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the specific motor having desired specification, e.g., rpm, hp for an intended use, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Regarding claims 9-11, 13, 15-16 and 24-26, 28, 30 and 31 (as best understood), Gurstein et al. in view of McCutchen, meets the limitations.

10. Claims 12, 14, 27 and 29 (as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Gurstein et al. in view of McCutchen as applied to claims 1, 9, 17 and 25 above, and further in view of anyone of Barous (5,890,954), Palushi (6,616,517) or Stewart (6,027,399).

Gurstein et al. in view of McCutchen meets all of the limitations of the above claims (as best understood), except for a port attached to a vacuum device. Vacuum ports to withdraw dust and debris are known in the art as evident by Barous, Palushi or Stewart. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to further modify the invention of Gurstein et al. in view of McCutchen with a port and vacuum device as taught by anyone of Barous, Palushi or Stewart to collect the sawdust.

### **Conclusion**

11. Prior art made of record and not relied upon are considered pertinent to applicant's disclosure. Robinson, Duncan et al. and Steibel are cited to show related inventions.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hadi Shakeri whose telephone number is 703-308-6279. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail, III can be reached on 703-308-2687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Hadi Shakeri', with a stylized flourish at the end.

Hadi Shakeri  
Primary Examiner  
Art Unit 3723  
July 20, 2004